

News Release



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Labor Department Sues Baltimore Company and 401(k) Plan Official For Failure to Forward Employee Contributions

BALTIMORE, MD--The U.S. Department of Labor sued AK Robins LLC of Baltimore, Md. and the fiduciary of the company's 401(k) plan on April 17, 2003 for failing to forward employee contributions to the plan.

The suit, filed in federal district court in Baltimore, alleges that Sheila Canelos, majority owner of the company and the plan's sole trustee, failed to forward to the plan \$19,680.59 in contributions withheld from employees' paychecks between September 1998 through December 2000, and used the money to benefit the company.

The lawsuit seeks to permanently bar the company and Canelos from serving in a position of trust with any employee benefit plan covered by the Employee Retirement Income Security Act (ERISA) and to offset Canelos' individual plan account to repay the losses, including lost opportunity costs. The suit also seeks to appoint an independent fiduciary to manage plan assets and distribute them to the participants and beneficiaries after liquidating the plan.

The food service equipment manufacturing company formerly maintained its principal place of business in Baltimore. Although Canelos filed for Chapter 13 bankruptcy on March 21, 2002, the bankruptcy court dismissed the case on Jan. 2, 2003. The 401(k) plan had eight participants and \$165,005.12 in assets as of Feb. 25, 2003.

Mabel Capolongo, director of the department's Philadelphia regional office of the Employee Benefits Security Administration (EBSA), noted that employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the Department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole, but allows them to avoid EBSA enforcement actions and civil penalties, as well as excise taxes. For more information about the VFCP see www.dol.gov/ebsa

"The VFCP gives plan sponsors a way to come into compliance with ERISA by restoring workers' benefits while avoiding an investigation by EBSA," said Capolongo. "It protects workers' health and retirement benefits and allows us to focus our resources on those who seek to avoid compliance."

EBSA's Washington district office investigated the case. Employers and workers can contact the district office at (301) 713-2000 or EBSA's toll free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector pension and health plans.

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(Chao v. Sheila Canelos)
Civil Action No 1:03-CV-1132

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